

2673

Docket No. 4148-4002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Sidney E. Frank et al.

Group Art Unit: 2673

Serial No.: 10/033,514

Examiner: Jimmy H. Nguyen

Filed: December 27, 2001

For: SYSTEM FOR DISPLAYING MOVING IMAGES ON A CONTAINER

CERTIFICATE OF MAILING (37 C.F.R. §1.8(a))

COMMISSIONER OF PATENTS

Washington, D.C. 20231

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Sir:

Technology Center 2600

I hereby certify that the attached:

1. Response to Restriction Requirement; and
2. Return Receipt Postcard
- 3.

along with any paper(s) referred to as being attached or enclosed and this Certificate of Mailing are being deposited with the United States Postal Service on date shown below with sufficient postage as first-class mail in an envelope addressed to the: Commissioner of Patents, Washington, DC 20231.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: October 7, 2003By: 

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PATENT

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RESPONSE TO RESTRICTION REQUIREMENT

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Washington, D.C. 20231

Technology Center 2000

SIR:

In response to the Official Action dated September 17, 2003 in which the pending claims 1-34 were subject to a Restriction Requirement, Applicant submits the following.

In the Official Action, restriction under 35 U.S.C. §121 is required to one of the following patentably distinct species of the claimed invention:

- I. Figures 1-9; and
- II. Figure 10.

Applicant provisionally elects the species of Figures 1-9, and the readable claims on that species are claims 1-19 and 24-34, with traverse.

According to M.P.E.P. §803, there are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (1) The inventions must be independent or distinct as claimed; **and**
- (2) There must be serious burden on the examiner if restriction is not required.

For the reasons stated in the Office Action, it is the Examiner's position that the because the identified inventions are distinct and have acquired a separate status in the art as shown by the identified different classifications, restriction for examination purposes as indicated is proper. While Applicant does not necessarily agree with the Examiner's reasoning in asserting that the inventions are distinct, Applicant respectfully submits that there would be no serious burden on the Examiner if restriction is not required. Thus, it is Applicant's belief that the Examiner has not met **both** of the requirements for issuing a proper restriction requirement.

Applicant respectfully submits that: (1) all groups of restricted claims are properly presented in the same application; (2) undue diverse searching would not be required; and (3) all claims should be examined together. Applicant respectfully traverses the requirement for restriction on the grounds that searching all of these inventions would not be unduly burdensome and, in fact, an overlap of searching would be necessary to ensure a complete search for a proper examination on the merits of any one of the identified species of inventions.

Accordingly, Applicant respectfully submits that the Requirement for Restriction is improper for at least the reasons stated, and requests that the Restriction Requirement be withdrawn and all pending claims be examined on the merits.

AUTHORIZATION

No fees are believed necessary in connection with this response. Should an extension of time be required, such extension is petitioned. The Commissioner is authorized to charge any fees or credit any overpayments which may be required for this paper to Deposit Account Number 13-4500, Order No. 4148-4002. A duplicate copy of this sheet is enclosed.

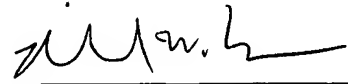
An early and favorable examination on the merits is respectfully requested.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Dated: October 7, 2003

By:



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Registration No. 41,737

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